

CITY COUNCIL/REDEVELOPMENT AGENCY
MINUTES OF A REGULAR MEETING

WESTMINSTER, CALIFORNIA
November 28, 2007

The City Council/Agency Board of the City of Westminster, California convened on November 28, 2007 at 6:00 p.m. in a Regular Meeting in the Council Conference Room, 8200 Westminster Boulevard, Westminster, California.

6:30 P.M.
CLOSED SESSION

CALL TO ORDER:

ROLL CALL

PRESENT: RICE, MARSH, FRY (arrived at 6:35 p.m.), QUACH, TA
ABSENT: NONE

CLOSED SESSION:

The City Council/Redevelopment Agency recessed to a Closed Session at 6:30 p.m. for the following purpose:

- 1) Conference with Labor Negotiators pursuant to Government Code Section 54957.6: Designated Representatives: City Manager Ray Silver; Employee Organizations: Westminster Municipal Employees Association (WMEA) and Westminster Police Officers' Association (WPOA).

RECESS: At 6:55 p.m., Mayor/Agency Chair Rice recessed the meeting held in the Council Conference Room.

7:00 P.M.

RECONVENE CITY COUNCIL/REDEVELOPMENT AGENCY MEETING

The City Council/Redevelopment Agency Meeting reconvened at 7:13 p.m. in the Council Chambers.

ROLL CALL

PRESENT: RICE, MARSH, FRY, QUACH, TA
ABSENT: NONE

SALUTE TO FLAG: Finley Elementary School Students

INVOCATION: Council Member Quach

REPORT OUT OF CLOSED SESSION:

The City Attorney stated there was nothing to report out of Closed Session.

SPECIAL PRESENTATIONS

- A. Finley Elementary School Choir cited the Finley School Pledge and sang two songs. The students presented Mayor Rice and the City Council a plaque with the words of the school pledge along with a school t-shirt to Mayor Rice.

SELECTION OF A MAYOR PRO TEM

Motion was made by Council Member Ta, and seconded by Mayor Pro Tem Marsh, to nominate Council Member Quach to serve as the Mayor Pro Tem. There were no other nominations. The motion carried by a 5-0 vote.

SPECIAL PRESENTATIONS

- B. The Mayor and City Council presented a Proclamation declaring January 11, 2008 as National Human Trafficking Awareness Day in the City of Westminster to Heidi Thi with CSP, Inc. and Police Lieutenant Derek Marsh, Co-Chair of the Orange County Human Trafficking Task Force. (115-00)(07)
- C. The report from Tami Bui, Region Manager, Local Public Affairs for Southern California Edison on Energy Use in Westminster was rescheduled for the December 12, 2007 meeting.

The City Clerk Announced Late Communications

The City Clerk announced Late Communications regarding agenda items that had been received in the City Clerk's office following the distribution of the agenda packet:

Matters from City Manager/Executive Director**Item No. 6.5**

Revision to Page 6 (the Signature Page) to the Agreement for Graffiti Removal and Street Sweeping Services and revision to Exhibit E of the Agreement (Encroachment Permit)

Item No. 6.6

Letter from Keith Osborn, Fire Chief, City of Garden Grove, received on November 28, 2007, in support of CARE Ambulance.

1. CONSENT CALENDAR**ROUTINE MATTERS****1.1 (City Council/Redevelopment Agency) Minutes of the Regular Meeting of the City Council/Redevelopment Agency of October 24, 2007.**

ACTION: Approved.

1.2 Claims Against The City (119-02)

ACTION: The Mayor and City Council denied claims against the City from:

- a) James L. Curry, Sr. in the amount of \$17,000.00
- b) Kathy Flynn in the amount of \$3,062.03

**1.3 (ITEM REMOVED AND HEARD SEPARATELY)
(Agency) Third Amendment to the Administration Agreement dated December 1, 2002 for the Brookhurst Royale Project. (502-02)**

Darrell Nolta, Westminster resident, spoke in favor of this item. He stated that there have been expressed concerns of whether or not the organization treats everyone equally and is afraid that there might be discrimination.

Council Member Marsh asked the staff to clarify the Agency's position in this contract.

Assistant Executive Director of Community Development Don Anderson responded by saying that the Agency was involved in the financing and therefore the Agency must be a party to the agreement. The agreement does not create any liability for the Agency. Mr. Anderson informed the City Council that the City Attorney has reviewed this amendment to the contract.

Board Vice Chair Quach abstained from voting on this item, since he lives within 500 feet of Brookhurst Royale.

Motion was made by Agency Member Fry, and seconded by Agency Member Marsh to approve the Third Amendment to the Administration Agreement between the Westminster Redevelopment Agency, Urban Futures, Inc. and Brookhurst Royale, LLC, dated December 1, 2002 for the Brookhurst Royale Senior Assisted Living Facility located at 15302 Brookhurst Street, and authorize the Executive Director to execute the amendment on behalf of the Agency.

The motion carried by the following vote:

AYES: RICE, FRY, MARSH, TA
NOES: NONE
ABSTAIN: QUACH

1.4 Notice of Completion for work performed by Central Painting Company, Inc. for Arterial Wall Prepping and Painting (502-03)

ACTION: The Mayor and City Council accepted the subject project and authorized the City Clerk to file a Notice of Completion with the County Recorder's Office.

1.5 Increase Purchase Order for Legal Services to the City (502-06)

ACTION: The Mayor and City Council approved an increase to the purchase order for Ferguson, Praet and Sherman in the amount of \$50,000.

1.6 Increase Purchase Order for Legal Services to the City (502-08)

ACTION: The Mayor and City Council approved an increase in the purchase order to Haight, Brown and Bonesteel in the amount of \$30,000.

1.7 Extension of 2007 Furlough (103-08)(07)

ACTION: The Mayor and City Council approved the extension of the 2007 furlough one additional day to include Monday, December 24, 2007.

ORDINANCES (SECOND READING)/RESOLUTIONS

(ITEM REMOVED AND HEARD SEPARATELY)

1.8 Resolution No. 4126 – A Resolution of the Mayor and City Council of the City of Westminster amending the Joint Powers Agreement for the California Insurance Pool Authority (CIPA). (502-03)

Council Member Marsh expressed that he has legal concerns with the proposed language of Article 17 and requested that the item be continued to a later date to allow legal counsel to have time to make modifications to the language.

Motion was made by Council Member Marsh, and seconded by Council Member Ta, to continue this item to a later date. The motion carried by a 5-0 vote.

(ITEM REMOVED AND HEARD SEPARATELY)**1.9 2008 Regional Transportation Improvement Program (613-10)**

Darrell Nolta, Westminster resident, spoke in opposition to the northbound off ramp onto Beach Boulevard being shut down. He stated that the I-405 freeway is a federal highway and in order for the proposed project to move forward the government has to approve it.

Council Member Marsh explained that Caltrans and OCTA have recently decided not to eliminate the northbound off ramp onto Beach Boulevard and not to make the improvements to the west side off ramp which would have expanded the ability to go northbound onto Beach Boulevard. He said that the item must stay in the proposal, because if Caltrans and OCTA decide to eliminate the northbound off ramp and expand the west side off ramp in the future, the City will have the funds to do so.

Marwan Youssef, Director of Public Works/City Engineer agreed with Council Member Marsh and explained that the Federal money for this project must remain on the list in order for the City to have access to it. He said that the list is modified every two years. If the City wants to remove the proposed project to eliminate the off ramp they can take it off of the list in the future.

Motion was made by Council Member Marsh, and seconded by Council Member Ta, to adopt Resolution No. 4127 entitled: "A Resolution of the Mayor and City Council of the City of Westminster Certifying that the City of Westminster has the Resources to Fund the Projects Submitted for Inclusion in the Fiscal Years 2008-2009 through 2013-2014 Transportation Improvement Program and Affirming Its Commitment to Implement All of the Projects Submitted in the Program".

The motion carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, TA

NOES: NONE

ABSENT: NONE

WARRANT REGISTER**1.10 (City Council/Redevelopment Agency) Warrant Register dated November 7 through 20, 2007. (105-09)(07)**

ACTION: Approved.

INFORMATION AND REPORTS**1.11 Minutes of the Youth Committee meeting held on September 12, 2007 (104-17)**

ACTION: Received and filed.

1.12 Minutes of the Planning Commission meeting held October 17, 2007. (104-11)

ACTION: Received and filed.

1.13 (City/Agency) Annual Financial Reports. (105-06)(07)

ACTION: The Mayor/Chair and City Council/Agency Board accepted the financial reports for the fiscal year ending June 30, 2007.

1.14 Treasurer's Report - October 2007. (105-08)(07)

ACTION: Received and filed.

Motion was made by Mayor Pro Tem/Vice Chair Quach, and seconded by Council/Agency Member Ta to approve the Consent Calendar with the exception of Item Nos. 1.3, 1.8 and 1.9 which were removed for separate consideration. The motion carried by a 5-0 vote.

END OF CONSENT CALENDAR**2. ORAL COMMUNICATIONS**

Judy Ahrens, Westminster resident, handed out a pamphlet and spoke in regards to the North American Union.

Darrell Nolta, Westminster resident, spoke in regards to the public use of Council Chamber equipment and the required notification. He feels that the County is not prepared for a multi type disaster. He referred to a "Black Swan" and cited its definition from the book. Mr. Nolta commended Fire Chief Prather for a job well done during the fires.

George Garcia, Westminster resident, spoke about the ULI Study that was presented to the Council on November 14, 2007. He expressed his concerns in regards to the presentation which included parking issues.

3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW – None

4. PUBLIC HEARINGS.**4.1 CASE NO. 2007-53 (ZONE TEXT AMENDMENT) CITY INITIATED CODE AMENDMENT TO TITLE 17 (LAND USE ORDINANCE) OF THE WESTMINSTER MUNICIPAL CODE) RELATING TO DEVELOPMENT STANDARDS FOR DETACHED, NON-HABITABLE ACCESSORY STRUCTURES. (201-00) (CN 2007-53)**

Art Bashmakian, Planning Manager, gave a brief history of the proposed amendment to Title 17. He explained that the Council continued this item to today, because of six issues that they were concerned about. Mr. Bashmakian went over the issues that were outlined in the staff report and informed the Council of staff's recommended changes to the code.

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OR IN OPPOSITION TO THE ITEM.

SINCE THERE WERE NO SPEAKERS IN FAVOR OR IN OPPOSITION ON THIS MATTER, MAYOR RICE CLOSED THE PUBLIC HEARING.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Marsh to introduce Ordinance 2423 entitled: "An Ordinance of the Mayor and City Council of the City of Westminster to amend Title 17 (Land Use Ordinance) of the Westminster Municipal Code relating to development standards for detached non-habitable accessory structures," and waive further reading.

The motion carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, TA
NOES: NONE
ABSENT: NONE

4.2 (AGENCY) MIDTERM REVIEW REPORT FOR THE THIRD REDEVELOPMENT IMPLEMENTATION PLAN DATED 2005-2009. (902-03)

Don Anderson, Director of Community Development Services gave a brief overview of this item and explained that this is a required public hearing.

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OR IN OPPOSITION TO THE ITEM.

SINCE THERE WERE NO SPEAKERS IN FAVOR OR IN OPPOSITION ON THIS MATTER, MAYOR RICE CLOSED THE PUBLIC HEARING.

Motion was made by Council Member Ta, and seconded by Mayor Pro Tem Quach to receive and file the Midterm Review Report for the Third Redevelopment Implementation Plan dated 2005-2009. The motion carried by a 5-0 vote.

4.3 AMENDMENTS TO THE 2007 EDITION OF THE CALIFORNIA BUILDING CODE, ELECTRICAL CODE, MECHANICAL CODE, PLUMBING CODE AND FIRE CODE. (210-04)

Soroosh Rahbari, Building Official and Randy Metz, Fire Official gave a brief overview of this item and informed the Council that the amendments have been reviewed by Building and Fire Officials and explained that they would be effective as of January 1, 2008.

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR TO THE ITEM.

Darrell Nolta, Westminster resident spoke in favor of this item. He stated that he is a strong supporter of global warming.

MAYOR RICE ASKED IF ANY PERSONS WISHED TO SPEAK IN OPPOSITION TO THE ITEM. SINCE THERE WERE NO SPEAKERS IN OPPOSITION ON THIS MATTER, MAYOR RICE CLOSED THE PUBLIC HEARING.

Motion was made by Council Member Marsh, and seconded by Council Member Ta to adopt Ordinance No. 2424 entitled, "An Ordinance of the Mayor and City Council of Westminster amending Title 15 by deleting Chapter 15.08, 15.12, 15.16, 15.20, 15.22, 15.32, and 15.36 of the Westminster Municipal Code to repeal previous editions of the model codes and to replace with new Chapters 15.08, 15.12, 15.16, 15.20, 15.22, 15.32, and 15.36 adopting and amending the 2007 Editions of the California Codes and Related Model Codes", and waive further reading.

The motion was carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, TA
NOES: NONE
ABSENT: NONE

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

5.1 Council/Agency Member Items

Council Member Ta thanked Mayor Rice, the City Attorney and City Manager for attending the meeting at Mission Del Amo Mobile Home Park that helped address the issues that were brought up at the presentation of the ULI Study.

Council Member Marsh addressed the issue of mobile home parks and reassured the residents of Westminster that what was presented at the ULI Study is only a recommendation and does not mean that the City will act on it. He also addressed Mr. Nolta and his concerns of the 48 hour requirement for Council presentations. Council Member Marsh also wished his son, Dermit a Happy Birthday.

Council Member Fry announced the Christmas Tree Lighting Ceremony which will be held on the December 3rd and the Home Decorating Contest which will be held on December 6th.

Mayor Pro Tem Quach thanked the Council for selecting him as Mayor Pro Tem. He offered to attend any City functions that will be held and encouraged the residents to do their Christmas shopping within Westminster. He also thanked the Westminster Police Department for keeping the community safe.

Mayor Rice reassured the mobile home residents of Westminster that the City does not plan on closing any of the parks. She apologized for what was said during the ULI Study presentation in regards to mobile home parks.

5.2 AB 1234 Reports – None

Council Member Marsh stated that he attended a seminar on the California Public Records Act Requests. He stated that the information he obtained was very valuable.

Mayor Rice informed everyone that the Council appointed Council Member Marsh to represent the City at all of the hearings that Coast Community College District Board will hold in the future.

Council Member Marsh announced that he will not be in attendance at the December 12th Council meeting due to the rescheduling of the Coast Community College District Board meeting that will be held that same day.

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR

6.1 Date for Youth in Government Day (701-04)

Motion was made by Council Member Ta, and seconded by Mayor Pro Tem Quach to approve Wednesday, April 23, 2008 for the annual Youth in Government Day program. The motion carried by a 5-0 vote.

6.2 Special Event Permit application from the TET Parade Foundation to hold the Vietnamese TET Parade on Saturday, February 9, 2008 between the hours of 5:00 a.m. and 3:00 p.m. (includes set up and clean up times) The event will take place on Bolsa Avenue and portions of Magnolia Street, Bushard Street and Bishop Street. Applicant estimates the attendance will be 5,000 people. (213-02) (TE)

Darrell Nolta, Westminster resident, expressed his concerns of the parade route with the new medians, the use of fireworks and the cost of the event. He also demanded that the trash be picked up after the celebration.

Trong Doan, Westminster resident informed the Council that the City of Westminster is very important to the Vietnamese community and thanked them for supporting the TET parade and celebration.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Ta to approve the Special Event Permit application subject to the conditions attached to the staff report.

Council Member Marsh requested that the insurance information be received in advance of the event so that the City can confirm the coverage. He requested that the following language be added to the last sentence in Item J of the Special Event Permit Application, "but in no event less than five full business days prior to the event." The maker and second to the motion agreed to the requested amendment.

The motion carried by a 5-0 vote.

6.3 Selection of Consultant to Provide Program and Construction Manager Services at Risk for the New Police Department Building and Related Facility Components (502-07)

Captain Mitch Waller gave a brief description of the item.

Council Member Marsh expressed his concerns of the lowest bidder being too low and the chances of them submitting multiple change orders.

Captain Waller assured Council Member Marsh that they do not anticipate any change orders due to their work history and that they are confident in their abilities.

Darrell Nolta, Westminster resident spoke in favor of the item, but expressed concerns in regards to the lowest bid being significantly lower than the other bidders. He is concerned that there is no penalty fee for the project not being completed by the expected due date.

Motion was made by Council Member Marsh, and seconded by Council Member Ta to approve the Agreement for Professional Consulting Services with Griffin Structures, Inc. in an amount not to exceed \$315,000.00 for Phase I of the Program and Construction Management at Risk (PCMR) services, as detailed in the Request for Proposal (RFP) for the new police building, and authorize the City Manager to execute the agreement on behalf of the City. The motion carried by a 5-0 vote.

6.4 (Agency) Architectural and Engineering Services for the City of Westminster-Westminster Chamber of Commerce Building Located at 14491 Beach Boulevard (502-04)

Darrell Nolta, Westminster resident spoke in opposition of this item, because he feels that there is nepotism between the City and the Chamber of Commerce.

Mayor Rice emphasized that the building is for the Westminster Chamber of Commerce and the City of Westminster.

Mr. Silver, City Manager explained that there will be meeting room space within the new building that can be accessed by different groups within the community along with the City of Westminster.

Motion was made by Council Member Ta, and seconded by Mayor Pro Tem Marsh to:

- 1) Authorize a budget transfer of \$110,890 from the Redevelopment Agency's Undesignated Fund Balance to Chamber of Commerce Design Capital Improvement Project; and
- 2) Approve the Architectural and Engineering Services Agreement with Dougherty Architects in the amount of \$260,890 for the City-Chamber of Commerce Building and authorize the Executive Director to execute the agreement on behalf of the Agency.

The motion carried by a 5-0 vote.

6.5 Street Sweeping and Graffiti Removal Services for Midway City (502-15)

Mayor Rice stated that she feels the service has not been that good and that street sweeping at her house has been skipped in the past. She informed the Council that she would like to look more into this next year when the contract is up for renewal.

Darrell Nolta, Westminster resident stated that the street sweepers are not doing a sufficient job on Brookhurst Street. He is concerned about the trash along the streets within the City.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Ta to approve the Agreement between the County of Orange and the Orange County Flood Control District to provide graffiti removal and street sweeping services to Midway City, and authorize the City Manager to execute the agreement on behalf of the City. The motion carried by a 5-0 vote.

6.6 EMS Emergency Transportation Services (502-19)

Andy Hall, Chief of Police gave a brief history on this item and explained to the Council that there was a potential violation of fair bidding requirements and in order to avoid that the Council needs to reconsider the decision based on the original Request for Proposals (RFP).

City Attorney Dick Jones explained that what appeared to be a simple action to add a third ambulance (which would be a first tiered ambulance with no cost to the City) under the original terms of the proposals that would be billed by the City, became a source for negotiations. The City has run into Federal kick-back issues; issues with the State Competitive bid process that has been raised by the Orange County EMS; and fundamental miscommunication between the two parties. Based upon the current position of Shoreline Ambulance, he stated that the best course of action is to protect the City and Shoreline Ambulance without prejudice, and to rescind the contract with Shoreline Ambulance and re-open the debate, based upon the original RFP.

Council Member Marsh confirmed that the Council cannot change the terms of the proposal without giving the other bidders an opportunity to participate. He stated that all bidders will be reconsidered.

Motion was made by Council Member Marsh, and seconded by Mayor Pro Tem Marsh to rescind Council's prior approval (at the September 26, 2007 meeting) of the contract for EMS Emergency Transportation Services; and proceed to consider to whom to award the contract based on the requests for proposals received from all three bidders. The motion carried by a 5-0 vote.

Rick Richardson, CARE Ambulance, thanked the Council for reconsidering the bid for EMS Emergency Transportation Services. Mr. Richardson reminded the Council that CARE Ambulance was the lowest bidder. He stated that CARE Ambulance has the most experience, they have faster response times, than what the RFP required, and they also provide translation services for patients who require it. Mr. Richardson informed the Council that Shoreline was unable to provide service at an incident that occurred on November 28, 2007 in which CARE was called to cover the call.

Ray Iskander, Pacific Ambulance stated that they bring experience and technology to the City of Westminster. Mr. Iskander informed the Council that they will staff a third ambulance and that they have already leased a building within City limits to do work in Westminster. He stated that the third ambulance will be controlled by the Fire Department. Mr. Iskander thanked the Council for reconsidering this item.

Giovanni Chiarella, Shoreline Ambulance explained that they had concerns of violating the Medicare and kick-back statutes and said that they could not come

to any determination with the City Attorney in regards to that. He stated that Shoreline has served the City since April 2007 without any complaints. He also stated that Shoreline was willing to provide the third ambulance that would be dedicated to the City.

Council Member Marsh asked Mr. Chiarella to confirm that the third ambulance would be housed in Huntington Beach. Mr. Chiarella responded by saying that the ambulance would be stationed in the City of Westminster during peak hours and will be housed in Huntington Beach during sleep hours. If there should be a call received during sleep hours, the ambulance that is stationed in Huntington Beach would be called out if needed.

Darrell Nolta, Westminster resident spoke in support of the bidding process. He expressed his disapproval of the Council not awarding the contract to the lowest bidder. He informed the Council that he submitted a public records request in regards to this issue and stated that within the information provided by the City Clerk he referenced a letter from Shoreline Ambulance that included concerns of the kick-back issues. Mr. Nolta feels that CARE Ambulance should be awarded the contract for EMS Emergency Transportation Services.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Marsh to award the EMS Emergency Transportation Services contract to Pacific Ambulance.

Mayor Pro Tem Quach state that he is afraid that Shoreline is not capable of providing proper service to the City.

Council Member Marsh feels that resources matter in a situation like this. He stated that in the last few months on more than 40 occasions a third ambulance service provider has been needed when Shoreline and Medix could not perform. He doesn't feel that Shoreline provides the level of security needed for the safety of the citizens, but hopes they will have it someday. He is troubled by their lack of resources.

The motion failed by the following vote:

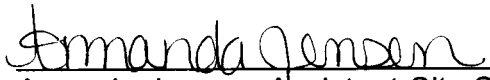
AYES: QUACH, MARSH
NOES: RICE, FRY, TA
ABSENT: NONE

Motion was made by Council Member Fry, and seconded by Mayor Rice to award the EMS Emergency Transportation Services contract to Shoreline Ambulance and to authorize the City Manager to execute the agreement on behalf of the City.

The motion carried by the following vote:

AYES: RICE, FRY, TA
NOES: QUACH, MARSH
ABSENT: NONE

7. **WRITTEN COMMUNICATIONS (Public)** - None
8. **LEGISLATIVE ITEMS** - None
9. **COMMISSION AND COMMITTEE ITEMS** - None
10. **COUNCIL/AGENCY ADJOURNMENT:** At 9:23 p.m., Mayor/Agency Chair Rice adjourned the meeting.


Amanda Jensen, Assistant City Clerk/
Agency Secretary